
IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

HEATHER M.H.,

Plaintiff,

v.

NANCY A. BERRYHILL,

Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:16-cv-01056-JNP-BCW

Judge Jill N. Parrish

On April 29, 2019, Magistrate Judge Brooke C. Wells issued a Report and Recommendation that this court deny plaintiff Heather M.H.'s motion to remand. [Docket 29]. The Report and Recommendation advised Heather M.H.. that a failure to object within 14 days of service could result in a waiver of objections upon review by this court. She did not file an objection within the 14-day time limit.

Heather M.H.'s failure to object waived any argument that the Report and Recommendation was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court need not apply this waiver rule as a procedural bar if "the interests of justice so dictate." *Id.* (quoting *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991)). The court has reviewed the Report and Recommendation and its conclusion that Heather M.H. has waived her arguments for a remand by failing to assert them in a timely manner. The court concludes that the Report and Recommendation is not clearly erroneous and finds that the interests of justice do not warrant deviation from the waiver rule. The court, therefore, ADOPTS IN FULL the Report and Recommendation.

Accordingly, the court ORDERS as follows:

1. The Report and Recommendation [Docket 29] is ADOPTED IN FULL.
2. The court DENIES plaintiff Heather M.H.'s motion to remand. [Docket 25].

SO ORDERED May 29, 2019.

BY THE COURT:



JILL N. PARRISH
United States District Judge